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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/946,710	10/08/1997	STALEY A. BROD	D5716CIP4	5139
27851	7590	02/18/2004	EXAMINER	
BENJAMIN A. ADLER 8011 CANDLE LANE HOUSTON, TX 77071				SAYALA, CHHAYA D
		ART UNIT		PAPER NUMBER
		1761		

DATE MAILED: 02/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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08/946710

EXAMINER

SAYALA

ART UNIT	PAPER
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1761 20040123

DATE MAILED:

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Commissioner for Patents

Response to Amendment

1. Newly submitted claims 19-30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons:
 - I. Claims 12-15, drawn to a method of reducing blood glucose levels, classified in class 424, subclass 85.4.
 - II. Claims 19-30, drawn to a method of preventing/reducing inflammation/reducing level of interleukin, associated with *rheumatoid arthritis*, classified in class 424, subclass 85.6.

The inventions are distinct, each from the other because:

Group I claims are drawn to a method that is different from Group II claims in that the methods are drawn to different disease conditions and the method in the Group I claims addresses a patient that is different from the patient in Group II claims.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter and because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. See 37 CFR 1.142(b) and MPEP § 821.03.

2. The amendment filed on 10/30/2003 canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-

responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention because of the reasons stated above, in paragraph 1.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

Applicant's statement that Claims 12-15 "are cancelled in favor of representing these claims in copending application U.S.S.N. 08/844731 from which they were cancelled to overcome a provisional statutory double patenting rejection with the instant application" is also not clear. Applicant is reminded that the Terminal Disclaimer filed 6/20/03 has already been found acceptable and has been entered and recorded.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA at Group 1761, telephone number (703) 308-3035.

The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-308-0661.


C. SAYALA
Primary Examiner
Group 1700.